

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA, §  
§  
*Plaintiff,* §  
§  
v. § CASE NO. 7:19-CV-250  
§  
72.260 ACRES OF LAND, MORE OR §  
LESS, SITUATE IN HIDALGO COUNTY, §  
STATE OF TEXAS; AND FRIENDS OF §  
WILDLIFE CORRIDOR, A TEXAS §  
NONPROFIT CORPORATION, §  
§  
*Defendants.* §

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**JOINT STATUS UPDATE**

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The parties file this Joint Status Report, in response to the District Court's June 16, 2020 Order<sup>1</sup>, and inform the Court as follows:

1. On December 30, 2019, this Court issued an Order wherein it ordered the parties to submit their individual briefings on the issue of just compensation by January 28, 2020.<sup>2</sup>
2. In compliance with said Order, the United States filed its brief on just compensation on January 28, 2020<sup>3</sup> asserting that \$100 was adequate compensation and represents a nominal value for the temporary easement acquired.
3. As per Court Order of October 15, 2019<sup>4</sup> and in preparation for the February 25, 2020 status conference the parties filed a Joint Status Report on January 31, 2020<sup>5</sup>. In the Joint Status

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<sup>1</sup> Dkt. No. 21

<sup>2</sup> Dkt. No. 17

<sup>3</sup> Dkt. No. 19

<sup>4</sup> Dkt. No. 15

<sup>5</sup> Dkt. No. 20

Report the United States informed the Court that it had filed its brief on just compensation on January 28, 2020.

4. The status conference was held on February 25, 2020. During the status conference the United States informed the Court that it had already filed its brief on the issue of just compensation. Defendant, Friends of Wildlife Corridor, had not yet filed their brief. Accordingly and during the hearing, the Court ordered only the Defendant to file their brief on the issue of just compensation within 7 days, i.e., by March 3, 2020.

5. At the conclusion of the February 25<sup>th</sup> status conference the United States believed it had fulfilled all its obligations in regards to the just compensation briefing due to the fact that the United States had already filed its brief on just compensation and, during the conference, the United States was not ordered to file a second brief on the issue during the hearing.

6. However, in this Court's Order of June 16, 2020, the Court orders both parties to show cause for their failure to file the just compensation briefing. Counsel for the United States is confused because the discussion during the February 25<sup>th</sup> status concerned whether Defendant would file a brief on just compensation, as the United States had complied with its filing requirement per the Court's Order of December 30, 2019.

7. After reviewing this Court's Order of June 16<sup>th</sup>, the United States reviewed the Minute Entry for the February 25<sup>th</sup> status conference. Upon re-reviewing the Minute Entry the United States realizes that the Minute Entry states that both parties are ordered to file a brief. But, as stated above, counsel for the United States understood, based on the Court's instruction during the February 25, 2020 hearing that it was not required to file a second brief on the issue of just compensation. The United States acknowledges that it should have sought clarification of the Minute Entry from the Court and counsel for the United States regrets the misunderstanding.

8. Defendant did not believe that filing a brief on just compensation was required if it did not wish to contest the United States' position on just compensation. During the February 25, 2020 status conference, Defendant believes it advised the Court that it lacked evidence to rebut the United States' claims on just compensation. Thus, Defendant understood that the Court, through the Minute Entry, was providing the Defendant additional time to hire an expert and file a response. Defendant, however, concluded that it did not wish to contest the United States' brief on just compensation for the reasons below.

9. Defendant advises the Court that the property at issue in this case is in the process of being sold to the United States Fish and Wildlife Service (USFWS). The sale is not yet finalized. But the Defendant and USFWS have reach an agreement on the sales price and terms. Defendant decided that it did not wish to invest additional resources in this matter in light of the pending sale.<sup>6</sup> The parties should have advised the Court earlier that there was no dispute on the issue of just compensation. However, finalizing the agreement and pleadings were delayed, in part, due to COVID-19 related restrictions.

10. On June 17, 2020, the parties filed a Joint Motion for Order Establishing Distribution of Funds on Deposit in the Registry of the Court, and Closing Case.<sup>7</sup>

11. As stated in the Joint Motion for Order, the parties agreed the deposited amount of \$100 as estimated just compensation was adequate just compensation for the 12 month temporary easement on Tract RGV-MCS-1215.

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<sup>6</sup> The pending sale does not moot this case. Defendant is still entitled to compensation for the temporary easement acquired.

<sup>7</sup> Dkt. No. 22

12. In light of the parties' agreement, the parties now seek Court guidance as to the issue of Defendant being required to file a brief on just compensation and the United States being required to file a second brief on just compensation.

13. Should the Court deem this Joint Status Report an adequate explanation regarding the required briefing on just compensation, the parties believe the Joint Motion for Order Establishing Distribution of Funds on Deposit in the Registry of the Court, and Closing Case will resolve all remaining disputes in this matter.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on June 26, 2020, a copy of the foregoing was electronically filed in the CM/ECF system, which will automatically serve a Notice of Electronic Filing on counsel of record.

By: s/ Hilda M. Garcia Concepcion  
**HILDA M. GARCIA CONCEPCION**  
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